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Before the  
FEDERAL COMMUNICATIONS COMMISSION  
Washington, D.C. 20554

FEDERAL COMMUNICATIONS COMMISSION  
OFFICE OF SECRETARY

In the Matter of )  
 )  
800 Data Base Access Tariffs )  
and the 800 Service Management )  
System Tariff )

CC Docket No. 93-129

To the Commission:

COMMENTS OF AERONAUTICAL RADIO, INC.

Aeronautical Radio, Inc. ("ARINC"),<sup>1</sup> by its attorneys, hereby submits these comments on the direct cases filed by the local exchange carriers ("LECs") seeking to justify the rates, terms, and conditions for their 800 database access services.<sup>2</sup>

ARINC and the airlines have long supported this Commission's public interest decision to reduce AT&T's market power over 800 services and to facilitate the introduction of competitive alternatives to that dominant carrier's offerings. The agency's efforts to achieve this goal will be eviscerated, however, if the charges for database access are unreasonably high or the terms

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<sup>1</sup> ARINC is the communications company of the air transport industry and is owned by the major airlines and other aircraft operators. ARINC provides the civil aviation community with a variety of voice and data telecommunications services on a not-for-profit basis and represents industry interests in regulatory and other forums. The airlines rely heavily upon 800 services to support their nationwide and worldwide reservations systems.

<sup>2</sup> 800 Data Base Access Tariffs and the 800 Service Management System Tariff, 8 FCC Rcd 5132 (1993) (Designation Order).

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and conditions are unreasonably burdensome.<sup>3</sup> In particular, the LECs' rates should not impose upon 800 subscribers costs that are more appropriately associated with the natural evolution of the LECs' networks to SS7 capabilities than the implementation of the 800 database.

To this end, the FCC ordered local exchange carriers ("LECs") to provide adequate justification for their 800 database costs.<sup>4</sup> This directive, while helpful, has been seriously undermined by the agency's refusal to allow affected parties unrestricted access to the LECs' cost information.<sup>5</sup> Moreover, the supplemental information provided by the LECs does not include supporting data substantiated with information regarding their costing methodology and assumptions. As a result, ARINC and other parties cannot fully evaluate the reasonableness of the rates to ensure that costs have not been improperly shifted to the 800 database service (where LEC market power is high) from other areas of operation.

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<sup>3</sup> Provision of Access for 800 Service, CC Docket No. 86-10, Second Report and Order, 8 FCC Rcd 907 (1993).

<sup>4</sup> See note 2, supra.

<sup>5</sup> 800 Data Base Access Tariffs and the 800 Service Management System Tariff, 9 FCC Rcd 715 (1994). Several LECs have continued to oppose the release of such information. 800 Data Base Access Tariffs and the 800 Service Management System Tariff, CC Docket No. 93-129, "Application for Review," filed March 2, 1994, by Ameritech Services, the Bell Atlantic Telephone Companies, Pacific Bell, Pacific Bell, the NYNEX Telephone Companies, and U S WEST Communications, Inc.

Accordingly, it must fall to the FCC itself to assume primary responsibility for scrutinizing the adequacy of the LECs' rates and their compliance with FCC rules. In particular, if the Commission is to allow exogenous treatment of 800 database costs,<sup>6</sup> it must ensure the LECs have complied with the strict standards established by the agency. Exogenous treatment is permitted only for "increas[ed] costs associated with the provision of the service" as "required by Commission orders."<sup>7</sup> Notably, "[c]ore SS7 costs" and the "costs of accelerating SS7 deployment" have already been specifically excluded from this category. Id. It follows that exogenous cost treatment must be afforded only for uniquely identifiable 800 database costs in excess of those that the LECs will incur to introduce increased network efficiencies with SS7 capabilities, which they had already scheduled prior to the FCC's decision regarding number portability.

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<sup>6</sup> ARINC has previously encouraged and continues to encourage the FCC to adopt endogenous treatment of 800 database costs. For purposes of these comments, however, it accepts *arguendo* that exogenous treatment will be applied and offers guidance on how to exercise control over the exogenous calculations.

<sup>7</sup> Second Report and Order at 911 (emphasis added). It is the very complexity of the LECs' calculations that make exogenous treatment vulnerable to cost shifting. The FCC has an obligation to scrutinize the LEC's non-public submissions to uncover improper cross-subsidizes hidden therein.

To enforce this critical limitation, the Commission must expressly (1) identify the costs that are specific to the LECs' 800 database offerings, (2) separate those costs from core SS7 costs and the costs of accelerating SS7 deployment, (3) quantify all efficiency savings, and (4) net out the differences, if any, which could then be incorporated in the per query rates. Only in this manner can exogenous treatment properly be limited to only the additional costs incurred to meet the FCC's specific 800 database requirements.

The Commission simply should not permit 800 database deployment to serve as a windfall opportunity for the LECs to recover SS7 costs properly borne by their shareholders. To do so would make 800 subscribers pay for a natural network evolution under the guise of the FCC's decision to introduce number portability. Nor should 800 database deployment serve as a mechanism for transferring AT&T's 800 service market power -- which historically has been the subject of abuse -- to the LECs. The fact that the rates for 800 database services have already been shown substantially to exceed the LECs' initial estimates clearly demonstrates the legitimacy of users' concern that such rates may be in excess of true cost.

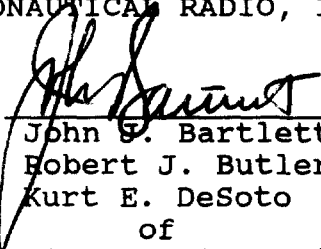
Attached to this filing for the convenience of the Commission is a copy of ARINC's "Petition To Reject or, in the Alternative, Suspend and Investigate," seeking FCC action on the LECs' initial 800 rate proposals. That pleading, which

identified in detail these and other concerns that the filed rates are inconsistent with both law and sound public policy, is hereby incorporated into this pleading by reference.

For the foregoing reasons, ARINC urges the Commission to scrutinize carefully the rates and rate justification proffered by the LECs. The public benefits expected to flow from the agency's considerable undertaking in this proceeding will be compromised if, as ARINC repeatedly has warned, the LECs are permitted to exercise their newly-established market power in the 800 database marketplace to the disadvantage of 800 service users.

Respectfully submitted,  
AERONAUTICAL RADIO, INC.

By:

  
John S. Bartlett  
Robert J. Butler  
Kurt E. DeSoto  
of

Wiley, Rein & Fielding  
1776 K Street, N.W.  
Washington, DC 20006

Its Attorneys

April 15, 1994

CERTIFICATE OF SERVICE

I, Kim R. Riddick, hereby certify that on this 15th day of April 1994, I caused copies of the foregoing "Comments of Aeronautical Radio, Inc.," to be mailed via first-class, postage prepaid, to the following:

\*A. Richard Metzger, Jr.  
Acting, Chief  
Common Carrier Bureau  
Federal Communications Commission  
1919 M Street, N.W.  
Room 500  
Washington, D.C. 20554

\*Gregory J. Vogt, Chief  
Tariff Division  
Common Carrier Bureau  
Federal Communications Commission  
1919 M Street, N.W.  
Room 518  
Washington, D.C. 20554

Thomas E. Grace  
John T. Lenaham  
Ameritech Services  
2000 West Ameritech Center Drive  
Room 4H70  
Hoffman Estates, IL 60196-1025

Robert M. Lynch  
Richard C. Hartgrove  
J. Paul Walters  
Southwestern Bell  
One Bell Center  
St. Louis, MO 63101

Robert B. McKenna  
U S WEST Communications, Inc.  
1020 19th Street, N.W.  
Suite 700  
Washington, D.C. 20036

Mr. Robert Sutherland  
Richard M. Sbaratta  
Helen A. Schokey  
BellSouth Telecommunications, Inc.  
4300 Southern Bell Center  
675 West Peachtree Street, N.E.  
Atlanta, GA 30375

James P. Tuthill  
Theresa L. Cabral  
Betsy S. Granger  
Pacific Bell  
140 New Montgomery Street  
Room 1523  
San Francisco, CA 94105

John M. Goodman  
Lawrence W. Katz  
Bell Atlantic Telephone Companies  
1710 H Street, N.W.  
Washington, D.C. 20006

Edward R. Wholl  
William J. Balcerski  
NYNEX Telephone Companies  
120 Bloomingdale Road  
White Plains, NY 10605

\*International Transcription Service  
1919 M Street, N.W.  
Room 246  
Washington, D.C. 20554

  
Kim R. Riddick

\* VIA HAND DELIVERY

Before the  
FEDERAL COMMUNICATIONS COMMISSION  
Washington, D.C. 20554

In the Matter of	)	
	)	
Provision of Access	)	CC Docket No. 86-10
for 800 Service	)	
	)	
Ameritech Operating Companies	)	
Tariff F.C.C. No. 2	)	Transmittal No. 698
	)	
Bell Atlantic Telephone Companies	)	
Tariff F.C.C. No. 1	)	Transmittal No. 560
	)	
BellSouth Telecommunications, Inc.	)	
Tariff F.C.C. No. 1	)	Transmittal No. 94
	)	
The NYNEX Telephone Companies	)	
Tariff F.C.C. No. 1	)	Transmittal No. 168
	)	
Pacific Bell	)	
Tariff F.C.C. No. 128	)	Transmittal No. 1615
	)	
Southwestern Bell Telephone	)	
Company	)	
Tariff F.C.C. No. 73	)	Transmittal No. 2264
	)	
U S WEST Communications, Inc.	)	
Tariff F.C.C. No. 1	)	Transmittal No. 335

To the Commission:

**PETITION TO REJECT OR, IN THE  
ALTERNATIVE, SUSPEND AND INVESTIGATE**

AERONAUTICAL RADIO, INC.

John L. Bartlett  
Robert J. Butler  
Kurt E. DeSoto  
WILEY, REIN & FIELDING  
1776 K Street, N.W.  
Washington, D.C. 20006  
(202) 429-7000

Its Attorneys

March 18, 1993



## TABLE OF CONTENTS

	<u>Page</u>
I. Introduction and Summary . . . . .	2
A. The LECs Should Be Required To Justify Specifically the Costs Allocated to 800 Database Access Services . . . . .	3
B. The Commission Should Not Permit the LECs To Assess Charges for Undelivered Calls . . .	6
C. Vertical Features Should Be Adequately Unbundled and Cost-Justified . . . . .	8
D. The Commission Should Evaluate 800 Database Terms and Conditions . . . . .	9
II. Conclusion . . . . .	12

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U S WEST Communications, Inc.	)	
Tariff F.C.C. No. 1	)	Transmittal No. 335
To the Commission:		

**PETITION TO REJECT OR, IN THE  
ALTERNATIVE, SUSPEND AND INVESTIGATE**

Aeronautical Radio, Inc. ("ARINC"), by its attorneys, hereby petitions the Commission to reject or, in the alternative, suspend and investigate the above-referenced tariff revisions. By those revisions, the local exchange carriers ("LECs") propose to introduce the rates, terms, and conditions for 800 database access service.

I. INTRODUCTION AND SUMMARY

ARINC is the communications company of the air transport industry and is owned by the major airlines and other aircraft operators. ARINC provides the civil aviation community with a variety of voice and data telecommunications services on a not-for-profit basis and represents industry interests in regulatory and other forums. The airlines rely heavily upon 800 services to support their nationwide and worldwide reservations systems. Consequently, ARINC and the airlines have long supported this Commission's decision to neutralize AT&T's existing market power over 800 services and to facilitate the introduction of competitive alternatives to that dominant carrier's offerings.

The LEC filings represent one of the last, critical steps leading to the implementation of fully competitive 800 services. The agency's efforts to achieve this goal will be rendered futile, however, if the charges for database access are unreasonably high or the terms and conditions are unreasonably burdensome. As Commissioner Duggan has instructed, "the tariff review process [must therefore] be strict".<sup>1</sup>

Accordingly, ARINC urges the FCC to (1) require additional documentation for, and require endogenous treatment of, 800 database costs; (2) direct the LECs not to assess charges for

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<sup>1</sup> Provision of Access for 800 Service, CC Docket No. 86-10, Second Report and Order, FCC 93-53, released Jan. 29, 1993 ("Second Report and Order") (Separate Statement of Commissioner Ervin S. Duggan).

undelivered 800 calls; (3) ensure the LECs offer vertical features, in particular multiple carrier routing, at rates that are properly unbundled and cost-based; and (4) reject the terms and conditions of the 800 database access tariffs that are burdensome or inappropriate to the provision of 800 service. The public benefits expected to flow from the agency's considerable undertaking in this proceeding will be compromised if, as ARINC repeatedly has warned, the LECs are permitted to exercise their newly-established market power in the 800 database marketplace to the disadvantage of 800 service users.<sup>2</sup>

**A. The LECs Should Be Required To Justify  
Specifically the Costs Allocated to 800  
Database Access Services**

ARINC applauds the agency's decision to establish a separate 800 service band within the traffic sensitive switched basket to protect against cross-subsidization and other anti-competitive behavior. ARINC has cautioned the Commission against permitting 800 database deployment to serve as a mechanism for transferring AT&T's 800 service market power -- which historically has been the subject of abuse -- to the LECs.

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<sup>2</sup> See, e.g., Provision of Access for 800 Service, CC Docket No. 86-10, "Reply Comments of Aeronautical Radio, Inc." filed May 3, 1988, "Comments of Aeronautical Radio, Inc." filed July 17, 1989; Reply Comments of Aeronautical Radio, Inc., filed November 20, 1991; "Reply Comments of Aeronautical Radio, Inc.," filed Jan. 13, 1992; "Comments of Aeronautical Radio, Inc.," filed March 13, 1992; "Comments of Aeronautical Radio, Inc.," filed July 10, 1992.

Nevertheless, ARINC wishes to express its continuing skepticism concerning the FCC's price cap regime generally and its expansion into the 800 database market. ARINC has experienced how, even with safeguards, carriers subject to price caps have been permitted to raise rates with impunity.<sup>3</sup> Users are justifiably appalled by a regulatory system that allows a carrier to abuse its market power over services which have no competitive alternatives. The 800 database service band will establish some protections against such abuses, but will require FCC enforcement to ensure that the purpose of the band is achieved.

In this regard, ARINC is opposed to the exogenous treatment of the costs associated with certain basic 800 database access services. As National Data Corporation has aptly pointed out in its Petition for Partial Reconsideration in this matter, 800 Service users will not benefit from number portability because the potential savings likely to result from increased competition apparently will be offset by the charges for database access.<sup>4</sup> Moreover, these charges are likely to increase given the

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<sup>3</sup> See, e.g., AT&T Communications, Order, DA 92-1356, released September 30, 1992 (allowing AT&T to increase price cap private line analog rates as high as 1000% despite specific FCC directives against such increases).

<sup>4</sup> Provision of Access for 800 Service, CC Docket No. 86-10, "Petition for Partial Reconsideration," filed March 12, 1993, by National Data Corporation.

incentives for the LECs to characterize as many expenses as possible as exogenous 800 database costs.<sup>5</sup>

If the FCC is to allow exogenous treatment of 800 database costs -- which ARINC opposes -- the LECs should be required, as a minimum, to justify fully how they have complied with the strict standards established by the agency. The agency allowed exogenous treatment only for the "implementation and operation of the basic 800 database service required by Commission orders."<sup>6</sup> These costs are to include only "increas[ed] costs associated with the provision of the service." Id. (emphasis added). Moreover, these costs must exclude "core SS7 costs" and the "costs of accelerating SS7 deployment."<sup>7</sup> It follows that exogenous costs should include only the excess of 800 database costs over the likely considerable cost savings that will be enjoyed by the LECs as a result of their increased network efficiencies from SS7 and the database.

The LECs should, therefore, be directed to identify the costs that are specific to their 800 database offerings, to distinguish those from the costs associated with core SS7 costs or for accelerating SS7 deployment, and to identify all

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<sup>5</sup> Tellingly, at least one LEC already has asked for exogenous treatment of additional costs not initially sanctioned by the agency. See Pacific Bell, Tariff F.C.C. No. 128 Transmittal No. 1615 at Description & Justification, II-2 ("Pacific Bell").

<sup>6</sup> Second Report and Order, ¶ 27 (emphasis added).

<sup>7</sup> Id. at 28.

efficiency savings. Those costs and savings should then be netted out and only the remainder, if any, incorporated in the per query rates. Only in this manner will the agency be able to ensure the LECs accord exogenous treatment only to these additional costs incurred to meet the FCC's specific 800 database requirements. No LEC has made such a showing.<sup>8</sup>

**B. The Commission Should Not Allow the LECs To Assess Charges for Undelivered Calls**

Traditionally, the LECs have not been permitted to charge for 800 or other calls that are not delivered to an IXC.<sup>9</sup> Under 800 database access, however, LECs may charge for database queries even when calls are not delivered to an IXC. According to the agency, "if a LEC incurs the cost of a completed 800 data base query on behalf of an IXC customer, that as a matter of economic efficiency, the associated IXC should be responsible for covering the costs."<sup>10</sup>

ARINC is concerned that users may incur significant charges for database queries for calls that are blocked during periods of high demand, particularly during promotions or widespread weather problems. For example, although the airlines typically

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<sup>8</sup> See, e.g., U S WEST Communications, Inc., Tariff F.C.C. No. 1, Transmittal No. 335, Description & Justification ("D&J") at 3-1.

<sup>9</sup> See generally 47 C.F.R. § 69.2(a) (1991).

<sup>10</sup> Second Report and Order, ¶ 14.

experience very low blocking rates during normal operations, blockage can increase to almost 50 percent of their calls during special promotions, fare wars and periods of inclement weather. Indeed, this past weekend, because of the weather emergency, the airlines noted a considerable increase in blocked calls from the public seeking information on flight cancellations and other information.<sup>11</sup>

Under the 800 NXX offering, no additional charges were incurred for those undelivered calls. Under the 800 database access regime, however, each of those calls would incur, as a minimum, the query charge and possibly other charges for associated vertical features. For the airline industry alone, these charges could be measured in the millions of dollars on an annual basis.

Accordingly, ARINC urges the agency to direct the LECs not to assess query charges for undelivered calls.<sup>12</sup> ARINC agrees with MCI that to do so will result in significant billing

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<sup>11</sup> ARINC also anticipates that the LECs will receive calls not within users' areas-of-service. These calls, too, will not be delivered and should therefore not be charged.

<sup>12</sup> ARINC notes that U S WEST intends to charge the basic 800 query and POTs translation charges only when calls are delivered to an IXC. U S WEST Communications, Inc., Tariff F.C.C. No. 1, Transmittal No. 335, Proposed §§ 6.7.1(F) and 6.8.1(I) ("U S WEST"). This treatment should be extended to all charges by all LECs.



disputes between IXCs, users and carriers that will needlessly expend industry and agency resources.<sup>13</sup>

ARINC also agrees with MCI that such billing is not necessary for the LECs to recover their costs.<sup>14</sup> The 800 NXX charges currently cover all costs even though they are not assessed on blocked calls, and ARINC sees no reason to change that practice here. Indeed, ARINC questions whether the demand projections used by the LECs in calculating the rates for 800 database have been understated, particularly since the historical data used by the LECs to make those projections did not include blocked 800 NXX calls.<sup>15</sup> Thus, as a minimum, the 800 database rates should be adjusted downward if the LECs are permitted to charge for blocked calls.

Alternatively, the LECs should develop a method by which database queries can be avoided when blocking is expected. U S WEST has proposed, for example, to require 24 hour notification

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<sup>13</sup> Provision of Access for 800 Service, CC Docket No. 86-10, "Petition for Reconsideration," filed on March 12, 1993, MCI Telecommunications Corporation at 3-4 ("MCI Petition").

<sup>14</sup> Id. at 4-5.

<sup>15</sup> See, e.g., NYNEX Telephone Companies, Tariff F.C.C. No. 1, Transmittal No. 168, D&J, p. 18 ("NYNEX"); Bell Atlantic Telephone Companies, Tariff F.C.C. No. 1, Transmittal No. 560, D&J § 4.2 ("Bell Atlantic"); BellSouth Telecommunications, Inc., Tariff F.C.C. No. 1, Transmittal No. 94, D&J, at 3-8 through 3-11 ("BellSouth"); but see Ameritech Operating Companies, Tariff F.C.C. No. 2, Transmittal No. 698, D&J, p. 4 ("Ameritech").

"prior to any media stimulation."<sup>16</sup> Such advance notice will allow U S WEST to maintain protective controls, including call gapping, to ensure provisioning of acceptable service. All companies should be directed to implement similar or other safeguards to prevent database charges for blocked calls during media stimulation or emergencies.

**C. Vertical Features Should Be Adequately Unbundled and Cost-Justified**

ARINC has consistently advocated the principle that rates be cost-based.<sup>17</sup> To that end, the LECs should be directed to disaggregate their cost showings to a sufficient degree to determine the appropriate allocation for each service offering, including the database query and each vertical feature. As proposed in most tariffs, however, all of the vertical features are bundled under a single rate element.<sup>18</sup> For example, Bell Atlantic charges for any and all vertical features under a single

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<sup>16</sup> U S WEST Proposed § 6.2.8 (A).

<sup>17</sup> See note 2, *supra*. ARINC has in the past supported the proposition that separate service rates ought not to be established where the cost of capturing the billing information substantially exceeds the costs of the underlying service. ARINC also believes that the agency should explore the possibility of allowing the LECs to charge only for vertical features. See generally Provision of Access for 800 Service, CC Docket No. 86-10, "Reply Comments of Aeronautical Radio, Inc.," filed July 10, 1992, at 3-4.

<sup>18</sup> See, e.g., Ameritech, Proposed § 6.9.4(A)(3) (800 Routing Options Charge); Bell Atlantic, Proposed § 6.9.2(A)(1) (single "VFP Charge").

charge called the "Vertical Feature Package Charge."<sup>19</sup> Other LECs essentially bifurcate vertical features into only two categories, POTS translation and Call Handling and Destination.<sup>20</sup> As a result, the LECs do not provide sufficiently discreet cost showings for different feature configurations.

Users should be able to choose from a menu of vertical features without the risk that their choices will be distorted by cross-subsidization among the various features. For example, users that choose only one feature, such as "time of day" routing, should not be charged for the costs of other features, such as multiple carrier routing, bundled into a single rate element. Application of the FCC's cost-causation principles will ensure that a particular category of 800 service users do not bear more than their proportionate share of costs.

**D.    The Commission should Evaluate 800  
Database Terms and Conditions**

ARINC has supported allowing LECs to serve as RESPORGs for 800 Service users.<sup>21</sup> LEC participation will increase competitive alternatives available to 800 service users. Nevertheless, ARINC questions whether the LECs should offer such services under

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<sup>19</sup> Bell Atlantic, Proposed § 6.1.2(A)(3)(b).

<sup>20</sup> See, e.g., Ameritech, Proposed § 6.9.4(A)(3) (800 Routing Options Charge); BellSouth, Proposed § 6.8.10; NYNEX, Proposed § 30.6.5; U S WEST, Proposed § 6.8.10 (I).

<sup>21</sup> See Provision of Access for 800 Service," Comments of Aeronautical Radio, Inc., filed July 10, 1992.

tariff. Several LECs have proposed to introduce rates, terms and conditions for the provision of RESPORG functions, including 800 number reservation and other SMS coordination activities, within their 800 database tariffs.<sup>22</sup>

These functions are not Title II services entitled to the protections afforded to common carriers, and thus the LECs should be directed to delete these provisions from their tariffs. Moreover, placing such provisions in their tariffs may promote cross-subsidization, thereby undermining price competition in the marketplace between LEC and non-LEC providers as well as price negotiation between LECs and customers.

ARINC also is concerned about the proposal by Southwestern Bell to determine the Percentage of Interstate Usage ("PIU") of 800 calls.<sup>23</sup> Traditionally, customers have reported the PIU to the LECs on a quarterly basis for determining appropriate rate assessment.<sup>24</sup> Southwestern Bell, on the other hand, has proposed to calculate these percentages on its own where "call detail" is available.<sup>25</sup> Unless Southwestern Bell describes specifically the

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<sup>22</sup> See, e.g., Ameritech, at Proposed §§ 6.4.1(c) and 6.9.4(A)(4); BellSouth at Proposed § 13.3.14.4; NYNEX, at Proposed §§ 13.4, 30.13.13, and 31.13.13.

<sup>23</sup> Southwestern Bell Telephone Company, Tariff F.C.C. No. 73, Transmittal No. 2264, Proposed § 2.4.1(A)(6) ("Southwestern Bell").

<sup>24</sup> See, e.g., Determination of Interstate and Intrastate Usage of Feature Group A and Feature Group B Access Service, 4 F.C.C. Rcd. 8448 (1989).

<sup>25</sup> Southwestern Bell, at Proposed § 2.4.1(A)(6).

"call detail" it proposes to use, and its methods for calculating the PIU from this detail, customers should be allowed to continue the current practice of supplying this information to the LECs. Otherwise, ARINC anticipates that the FCC may become embroiled in billing disputes between customers and LECs.

Finally, ARINC notes that the uniformity in vertical features anticipated by the Commission has not materialized.<sup>26</sup> The definitions and functionality of the vertical features vary widely. For example, some of the query charges do not appear to include the capability for area-of-service ("AOS") routing, which the agency concluded should be considered a basic 800 access service.<sup>27</sup> In addition, the names for the basic query charge and the vertical feature charge also differ among LECs, rendering it difficult for users to compare and review the LECs' rates. This confusion has already occurred in the context of ONA services, and should not be repeated here.

Accordingly, the Commission should urge the LECs to establish uniform basic 800 database elements and optional vertical features to facilitate public understanding and

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<sup>26</sup> Second Report and Order, ¶ 19.

<sup>27</sup> Provision of Access for 800 Service, CC Docket No. 86-10, Order, FCC 93-84, released Feb. 10, 1993. For example, Southwestern Bell proposes to establish a separate element for AOS called "Call Validation" offered as a "new" service. Southwestern Bell, at Proposed § 6.7.3(G)(2) and D&J, 2-1; see also BellSouth, at Proposed § 5.2.4(A), 13.3.14.2(c), 13.3.14.33; Ameritech at Proposed §§ 6.8.1(c)(8), 6.9.4(A)(4); but see Bell Atlantic, at Proposed § 6.4.3.

evaluation of the LECs' 800 database offerings. Such uniformity also will assist the agency in its review and comparison of the reasonableness of the rates associated with their offerings.

## II. CONCLUSION

For the foregoing reasons, ARINC urges the Commission to reject the above-referenced tariff revisions or, in the alternative, suspend and investigate their reasonableness.

Respectfully submitted,

AERONAUTICAL RADIO, INC.

By: 

John J. Bartlett

Robert J. Butler

Kurt E. DeSoto

of

Wiley, Rein & Fielding

1776 K Street, N.W.

Washington, DC 20006

Its Attorneys

March 18, 1993

CERTIFICATE OF SERVICE

I, Kim R. Riddick, hereby certify that on this 18th day of March, 1993, I caused copies of the foregoing "Petition For Rejection or, in the Alternative, Suspension and Investigation" of Aeronautical Radio, Inc., to be mailed via first-class, postage prepaid, to the following:

Ms. Cheryl Tritt, Chief  
Common Carrier Bureau  
Federal Communications Commission  
1919 M Street, N.W.  
Room 500  
Washington, D.C. 20554

Mr. Greg J. Vogt, Chief  
Tariff Division  
Common Carrier Bureau  
Federal Communications Commission  
1919 M Street, N.W.  
Room 518  
Washington, D.C. 20554

Ann H. Stevens, Chief  
Legal Branch, Tariff Division  
Common Carrier Bureau  
Room 518  
1919 M Street, N.W.  
Washington, D.C. 20554

Judith A. Nitsche, Chief  
Tariff Review Branch, Tariff Division  
Common Carrier Bureau  
Room 518  
1919 M Street, N.W.  
Washington, D.C. 20554

Mr. John C. Litchfield  
Assistant Vice President  
Tariffs and Costs  
Ameritech Services  
2000 West Ameritech Center Drive  
Location 4F08  
Hoffman Estates, IL 60196-1025

Mr. Larry W. Walther  
Division Manager  
Carrier Marketing  
Southwestern Bell  
One Bell Center, 7-Z-01  
St. Louis, MO 63101

Glenn H. Brown  
Executive Director  
Public Policy  
U S WEST Communications, Inc.  
1801 California Street, Suite 4740  
Denver, CO 80202

Mr. R. W. Fleming  
Operations Manager  
Pricing  
BellSouth Telecommunications, Inc.  
29G57 Southern Bell Center  
675 West Peachtree Street, N.E  
Atlanta, GA 30375

Mr. Al Swan  
Pacific Bell  
140 New Montgomery Street, Room 1814  
San Francisco, CA 94105

Michael R. McCullogh  
Director, Rates & Tariffs  
External Affairs  
Bell Atlantic Network Service, Inc.  
One Bell Atlantic Plaza  
1310 North Court House Road, 4th Floor  
Arlington, VA 22201

Mr. Jacob J. Goldberg  
Managing Director  
Access Markets  
Telesector Resources Group  
NYNEX Government Affairs Co.  
1828 L Street, N.W.  
Suite 1000  
Washington, D.C. 20036

  
Kim R. Riddick